



**TANZANIA REVENUE AUTHORITY**

**Practice Note No.01/2019**

**Withholding Tax on  
payment for Goods and  
Services as per Income  
Tax Act, Cap 332**

**February, 2019**

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# **WITHHOLDING TAX ON PAYMENT FOR GOODS AND SERVICES**

## **1.0 Tax Law**

This Practice Note is issued under section 9 of the Tax Administration Act, Cap 438 as amended from time to time.

## **2.0 Purpose**

The Practice Note (PN) is issued for the purpose of providing guidance for the general public and officers of the Tanzania Revenue Authority (TRA) in order to achieve consistency in the administration of Withholding Tax (WHT) on goods and services as provided for under Section 83 of the Income Tax Act Cap 332. It explains the legal and administrative aspects including procedures for treatment and computations of withholding tax on goods and services.

## **3.0 Interpretation**

**In this Practice Note unless the context requires otherwise**

“Act” means the Income Tax Act Cap 332 and the Tax Administration Act Cap 438.

Definitions and expressions used in this PN have the same meaning as in the Act, unless the context requires otherwise.

## **4.0 The Application of this Practice Note**

**This PN considers:**

### **Services**

- i. Type of services attributable to payment of services fee that are subject to withholding tax under Section 83(1)(c) (ii) of the Income Tax Act.
- ii. Payments to be included in calculating service fees.
- iii. Source rule for payment
- iv. Application to particular type of persons
- v. Calculation of withholding payment amounts.
- vi. Procedures applicable to withholding

### **Goods**

Withholding tax on payments for goods supplied to corporations and its institutions by any person.

## **5.0 Applicable Concepts**

### **5.1 Withholding tax:**

Withholding tax is a tax that is required to be withheld by the person making “payment” of certain amounts to another person in respect of goods supplied or services rendered. It is a tax deducted at source because the person making payment has an obligation to withhold.

**5.2 Payment** for this purpose is defined in the Act as: -

*“Payment includes the transfer of assets or money, the transfer or decrease of a liability, the provision of services, the use or availability for use of money or asset and the creation of an asset in another person”*

**5.3 Withholdee** - A person receiving or entitled to receive a payment from which income tax is required to be withheld.

**5.4 Withholding Agent** - A person required to withhold income tax from a payment made to a withholdee.

**5.5 “Professional Service”** means services rendered by a person licensed as a practitioner by any recognized professional body and shall include other services or activities of an independent business character including consultancy, legal, architectural, engineering, supervisory, accounting and auditing, medical, artistic, survey, theatrical performance, sports, exhibition, private security services, private investigation and consultancies in various disciplines or any entertainment held or given other than those for remuneration under contract of employment.

**5.6 Corporation”**

“corporation” means any company or body corporate established, incorporated or registered

under any law in force in the United Republic or elsewhere, an unincorporated association or other body of persons, a government, a political subdivision of a government, a public authority, public institution, a public international organization and a unit trust but does not include partnership;

## **6.0 Types of withholding tax**

**Final Withholding Taxes** are taxes in which the withholder cannot claim any tax credit when calculating the income tax payable for a year of income.

**Non-Final Withholding Taxes:** are taxes which the withholder is entitled for a tax credit being an amount equal to the tax treated as paid for the year of income in which the amount is derived.

### **Note:**

**This PN covers only the WHT that relates to Non-Final Withholding Taxes.**

## **7.0 Withholding tax obligations**

The law requires a resident person who makes payment to another resident or non-resident to withhold a tax at the rates specified under paragraph 4(c) of the First schedule of the Income Tax Act.

## **7.1 In case of:-**

### **(a) Services:**

Tax is withheld on payments made in respect of:

- i. Service Fee with a source in URT  
Paid to a non-resident
- ii. Service fee for provision of  
professional services paid to a resident  
person

### **(b) Goods**

- (1) Any resident corporation which makes payment in respect of goods: supplied by a resident person in the course of conducting business shall withhold income tax at the rate of 2% as provided for under paragraph 4(c) of the First Schedule.
- (2) The law shall apply to a resident corporation whose budget is wholly or substantially financed by the Government budget subvention.

For the purpose of this Practice Note the supply of water and electricity shall be regarded as goods and therefore not subject to withholding obligation under services.

***Note: Water and electricity are non-transferable which is one of the key attributes of any service.***

## **7.2 Exempt payment under Sec 83**

1. Payments made by individuals unless made in conducting a business;
2. Payment that are exempt amount.

## **7.3 Source of Payment**

A service fee payment has a source in the United Republic where the fees is attributable to rendering service:

- i. In the United Republic, regardless of the place of payment. A payment has a source in the United Republic no matter where the payment is made if the service is rendered in the United Republic. Service is rendered in the United Republic where
  - (a) Either the activities are carried out in the United Republic or:
  - (b) The results of the activities are directed to or utilized or benefitted by resident of the United Republic.
- ii. Where the payer is the Government of the United Republic i.e Union Government and Zanzibar Revolution Government.

## **8.0 Application to particular types of persons**

The withholding tax deduction applies to payments made by a resident person including a domestic permanent establishment of a non-resident person to a resident person.

The tax withholding is non-final when the



payment is made to a resident person. The withholder shall be entitled to a tax credit in an amount equal to the tax deducted as paid in the year of income.

The tax deducted on a payment made to a partnership shall be allocated to the partners, proportionately to each partner's share and treated as having paid by the partners for the year of income.

## **9.0 Basis for calculation of the withholding payments**

### **Withholding Tax Base**

- I. Tax shall be calculated on the gross amount paid without deduction of expenses or allowances
- II. Withholding Tax shall be computed on the amount exclusive of VAT

### **Example 1:**

ABC Limited invoice in relation to Consultancy services provided to Dar es Salaam City Council has the following amount:

<b>DESCRIPTION</b>	<b>AMOUNT</b>
Service Fee	10,000,000/=
VAT	1,800,000/=
Total	11,800,000/=

Therefore:

- I. W/Tax will be charged on Tsh 10,000,000/=
- II. W/Tax is  $5\% \times 10,000,000 =$

**WHT = TSH 500,000/=**

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## 10.0 Inclusion of value of benefits and facilities

Where services are provided and payments are made to the withholder of cash plus provision of benefits and facilities, the withholding tax base shall include the amount paid for the benefits or facilities. Where the benefits were not paid for, they shall be quantified at a market value at the time of payment. Furthermore, where services are provided and payments are made to the withholder in form of service fee and reimbursements then the withholding tax base will be the full amount that is service fee plus reimbursement amount.

### Example 2:

FLG Consultants were hired by Kinondoni District Council to carry consultancy work. The contract terms involved payment of reimbursement expenses which were used for accommodation in a 5 star hotel for 4 staff of FLG for 20 days by the client. The contract price was quoted at Tsh 150,000,000/= plus reimbursements. The Client Paid a total of Tsh 166,000,000/= as reimbursement expenses for accommodation of FLG staff.

DESCRIPTION	AMOUNT (Tsh)
Consultancy Fee	150,000,000/=
Reimbursements	16,000,000/=
<b>Total</b>	<b>166,000,000/=</b>

### W/Tax Base

Consultancy fee            150,000,000/=

Reimbursements            16,000,000/=

**W/Tax Base                    166,000,000/=**

WHT Computation = 166,000,000\*5%

$$\text{WHT} = \underline{8,300,000/=}$$

### 11.0 Withholding Tax Base for Mixed Supplies (Goods & Services)

If the invoice raised involves both supply of Goods and Services, separation of the amount payable must be made for value for Goods and Services. However, if the separation is not done then the full amount will be considered as supply for services.

#### Example 3:

XYZ was hired to conduct a Survey for Ministry of Education. The contract involved also supply of Books and Stationeries where there was a need. After completing the work, XYZ raised an invoice with the following details

DESCRIPTION	AMOUNT (Tsh)
Survey Fee	70,000,000/=
Books and Stationeries	30,000,000/=
VAT	18,000,000/=
<b>Total</b>	<b>118,000,000/=</b>

- I. W/Tax will be charged as follows:
- (a) W/Tax on Goods ( $2\% \times 30,000,000/=$ )  
= 600,000/=
  - (b) W/Tax on Service ( $5\% \times 70,000,000/=$ )  
= 3,500,000/=

**Note:** Failure to separate the figures in respect of the value for goods and services attracts WHT at the rate of 5% on the entire amount ( $5\% \times 100,000,000$ ) = Tsh 5,000,000/=

## 12.0 Withholding Tax Base for Construction Works

- I. Section 83(3) of the ITA read together with Finance Act 2016 provides for apportionment of construction works when determining the base for WHT.
  
- II. If payment involves Construction Works, the payment subject to WHT shall be based on the ratio of 3:2 for Materials and Services respectively.

### Example 4:

Mgeni Contractors were awarded a contract to construct a new office for Ministry of Finance in Dodoma. One of the invoice raised based on percentage of completion had the following amount:

DESCRIPTION	AMOUNT
Value of work	600,000,000/=
VAT	108,000,000/=
Total	708,000,000/=

### WHT Computation based on Construction Work Ratios

Material	Service
3	2
$3/5 * 600,000,000/=$	$2/5 * 600,000,000/=$
360,000,000/=	240,000,000/=

W/Tax on Goods -  $(2\% * 360,000,000/=)$

**WHT = 7,200,000/=**

W/Tax on Services -  $(5\% * 240,000,000/=)$

**WHT = Tsh 12,000,000/=**

### **13.0 Procedure Applicable to Withholding Statements and payments of tax withheld or treated as withheld - Sec. 84**

#### **I. Time for Payment**

- (a) Tax withheld is payable to the Commissioner General within seven days after the end of each calendar month of deduction.
- (b) Payment of WHT is done electronically through Revenue Gateway System

#### **II. Filing of Withholding tax statements**

Every withholding agent shall file with the Commissioner General within 30 days after the end of each 6-month calendar period a statement of any income tax withheld during the month by filling the prescribed form *ITX 230.01.E. – Withholding Tax Statement-*

- (a) payments made by the withholding agent during the period that are subject to withholding;
- (b) the name and address of the withholder;
- (c) income tax withheld from each payment; and
- (d) Any other information that the Commissioner General may prescribe.

**Note:** A withholding agent who fails to withhold income tax as required by the law must nevertheless pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld. All tax return forms can be downloaded through

**www.tra.go.tz**

## **14.0 Issuance of Withholding Certificate**

### **–Section 85 of the ITA**

A withholding agent is required to prepare and serve a withholding certificate to all withholder's separately for each month within 30 days after the end of the month of deduction. However, due to the introduction of online payment module, the certificates can be viewed and printed both by the withholder and withholder though Revenue Gateway System.

## **15.0 Tax Credit to Withholder**

Tax withheld is a tax credit against the withholder's total tax liability for the year of income.

The withholder is entitled to tax credit of an amount that is equal to the tax withheld or treated as withheld when paid on his behalf by the withholding agent. The tax credit is against the withholder's tax liability for the year of income when the tax is withheld.

## **16.0 Consequences for failure to withhold**

### **– Sec. 84 of the ITA**

A withholding agent who fails to withhold Income tax in accordance with the law must nevertheless pay the tax that should have been withheld in the same manner and at the same time as tax that is withheld together with interest. A withholding agent who fails to withhold income tax but pays the tax that should have been withheld to TRA shall be entitled to recover an equal amount from the withholder.

## **17.0 Consequences for failure to file returns – Sec. 78 of TAA, Cap 438**

Failure to comply with the requirement will attract sanctions including interest and penalties as per Tax Administration Act, Cap 438 as hereunder:-

A withholding agent who fails to file a tax return (statement of taxes withheld and paid) on due date shall be liable for a penalty for each month or part of the month during which the failure continues calculated as the higher of

- I. 2.5% of the amount assessable per tax return less the amount of tax paid at the start of the period towards that amount or
- II. Tshs 225,000 in case of a body corporate or Tshs 75,000 for an individual.

## **18.0 Submission of Contract Documents to TRA**

In compliance with Regulation 109 of The Public Procurement Act No. 7 of 2011 published through GN. No. 446 of 2013

Which states that

“The Accounting Officer shall ensure that copies of all contracts are sent to the Authority, Attorney General, Controller and Auditor General, Internal Auditor General or Government Asset Management Division as the case may be, and the Tanzania Revenue Authority within thirty days from the date of signing the contract”

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